

REMARKS

Applicants note with appreciation the detail and thoroughness of the Office Action dated 12 December 2007.

Claims 1-5 are objected to because of various informalities. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claims 6-8 are rejected under 35 U.S.C. 101 because of recitation of a use without setting forth any steps involved. Lastly, claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey et al. (U.S. Patent No: 2002/0150653; hereinafter *Bailey*).

In light of the amendment filed on 6 May 2008, claims 1-3, and 11 are currently amended to correct in part some typographic errors. Claims 12-14 are added new. Support for the amendment is found, among other places, in the abstract, in paragraphs [0002], [0006], [0018], [0020], [0036], [0037], [0041], and [0046], and in the claims originally filed. No new matter is introduced by this amendment.

Claims 1-14 are pending in the application.

Remarks Directed to Objections to Claims 1-5

Various informalities are deemed to be found in claims 1-5 as stated on pages 2-3 of the Office action.

In response, claim 1 has been amended, as submitted in the amendment dated 6 May 2008, to correct the word "lest" with "least." Claim 2 has been amended to correct the range

as "0.5-30mg, 0.1-10mg." Claim 4 has been amended to now recite "vitamin E as an antioxidant." (Emphasis Added)

Reconsideration and withdrawal of the objections to claims 1-5 is requested.

***Remarks Directed to Rejections to claims 1-5
under 35 U.S.C. 112, first and second paragraphs***

The term " C_{1-8} carboxylic acid" of claims 1-5 is deemed not "adequately described to convey what comprises the term" and more particularly, it is deemed unclear whether "the structure is straight .. branched . . . a single ring . . . more than one ring..." (Office action, pages 2-4). The term "dry" or "dry weight of the supplement" is deemed unclear because "the specification does not provide a standard for ascertaining the requisite degree" (Office action, page 5). The term "weight %" is deemed indefinite because it is unclear as to "what the basis of the weight percentage is" (Office action, page 6). Lastly, claims 6-8 are indefinite for reciting a use without setting forth any steps.

By convention, C_{1-8} carboxylic acid refers to carboxylic acid having 1-8 carbon atoms. As such, the C_{1-8} carboxylic acid structurally may not contain more than one ring, regardless if it is a 5-carbon ring or a 6-carbon ring. One example of a ring-containing C_{1-8} carboxylic acid is a benzoic acid as indicated in paragraph [0046]. Likewise, C_{1-8} carboxylic acid is reasonably ascertained to have a straight chain structure as indicated in the specification in view of the list including the formic acid, the citric acid, the lactic acid, the propionic acid, the ascorbic acid, the fumaric acid. *Id.* As defined in the specification originally filed and particularly in paragraph [0046], the term C_{1-8} carboxylic acid of claim 1 may be reasonably ascertained as either straight-chained or of a ring structure. As such, requisite clarity is believed to have been provided to the term C_{1-8} carboxylic acid as recited in claim 1.

Contrary to the contention of the Patent Office, the term "dry" or "dry weight" as recited in the claims 1-5 is commonly known and widely used to mean "the mass of a material or an object when dried and without fluids." For example, the term "dry weight" is employed in

the statutory language of California Code of Regulations Section 1408.3, a copy of which has been submitted with the last amendment dated 6 May 2008. Moreover, Applicants have conducted a search, in the United States Patent and Trademark Office patent database, using the search formula of "ACLM/"dry weight" AND ACLM/"vitamin" AND ISD/20000101->20050101. The search resulted in 17 issued patents. All the 17 patents issued by the Office recite "dry weight" as a stand-alone term in the claims section without further elaborating "what is dry weight" or "how dry is dry" in respective specification of each of the issued patents. A copy of the search result has been submitted with the last amendment dated 6 May 2008. As such, Applicants submit that one skilled in the art would readily be able to ascertain that "dry weight" means the weight of a mass or an object when dried or without fluids and therefore, claims 1-5 submitted to be definite for their mere recitation of the term "dry weight."

As to the term "weight %" recited in claim 1 and claim 3 that is deemed indefinite, claims 1 and 3 have been amended accordingly, to read "the supplement . . . contains 0.5-3.5 mg of iron fumarate per 100 mg of the supplement" for claim 1 and "0-1 mg of an antioxidant per 100 mg dry weight of the supplement" for claim 3. Support for this amendment is found, among other places, in paragraph [0020] of the specification.

As to claims 6-8 deemed indefinite for having recited the use of a supplement without setting forth any steps, claims 6-8 have been amended, as submitted in the amendment dated 6 May 2008, to be directed to a method with step(s) identified.

With the above identified claim amendments and remarks directed thereto, Applicants respectfully submit that the subject matter of claim 1-8 is entitled to patentable weight. Reconsideration and withdrawal of rejections to claims 1-5 under 35 U.S.C. 112, first and second paragraphs, and to claims 6-8 under 35 U.S.C. 112, second paragraph and under 35 U.S.C. 101 is solicited.

Remarks Directed to Rejections to Claims 1-5 under 35 U.S.C. 102(b) over Bailey

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by *Bailey* because *Bailey* teaches "the concept of a food, feed, and vitamin preparations comprising folates and multivitamins" (Office action, page 7).

Claim 1 in current form recites a food and feed supplement comprising "at least one C₁₋₈ carboxylic acid . . . vitamins B₆, B₉, and B₁₂ in a combined amount of 10-50 mg/gram dry weight of the supplement . . . 5-25 mg Fe/gram dry weight of the supplement . . . and 0-10 mg of an antioxidant per gram dry weight of the supplement."

In contrast, the feed supplement of *Bailey* is drastically different. *Bailey* fails to teach or suggest a supplement comprising a carboxylic acid, let alone specifically the C₁₋₈ carboxylic acid. *Bailey* fails to teach or suggest a supplement comprising all three B vitamins including the B₆, B₉, and B₁₂, let alone the B vitamins with specified amounts as recited in claim 1. Moreover, *Bailey* fails to teach or suggest a supplement comprising an iron and an antioxidant with specified amount as indicated in claim 1.

Bailey fails to teach or suggest at least one element of the independent claim 1 and all the claims dependent therefrom are submitted to be patentable under 35 U.S.C. 102(b) over *Bailey*.

Reconsideration and withdrawal of rejections to claims 1-5 under 35 U.S.C. 102(b) over *Bailey* is solicited.

Remarks Directed to Claim 11 Currently Amended

In light of the last amendment dated 6 May 2008, claim 11 is currently amended to depend from claim 1 with particular recitation as to the C₁₋₈ carboxylic acid. Support for the amended claim 11 is found, among other places, in paragraphs [0006] and [0046] of the specification.

Allowability of claim 11 is solicited.

Remarks Directed to Claims 12-14 Added New

Claim 12-14 are added new to depend from claim 1 with particular recitation as to an individual amount of the B₆ vitamin, the B₉ vitamin, and the B₁₂ vitamin, respectively.

Support for the newly added claims 12-14 is found, among other places, in paragraphs [0036], [0037], and Abstract of the published application. As such, no new matter is introduced by the amendment.

The individual amount is illustratively calculated as shown below. By way of example, the amount of the B₆ vitamin is described in Table 3 to be in a range of 1 mg/kg feed in pigeons or rabbits to 12.3 mg/kg feed in fish. It is also taught in the Abstract that the supplement may be used in an amount of 0.5-15 grams dry weight per kg dry feed. By calculation, the B₆ vitamin may be used in an amount of 0.07 to 24.6 mg/gram dry weight of the supplement, wherein the lower value of 0.07 is derived from the formula of

$$\frac{1 \text{ mg/kg feed}}{15 \text{ g supplement/kg dry feed}},$$

and wherein the higher value of 24.6 is derived from the formula of

$$\frac{12.3 \text{ mg/kg feed}}{0.5 \text{ g supplement/kg dry feed}}.$$

Allowability of the newly added claims 12-14 is solicited.

CONCLUSION

Applicants have made a genuine effort to respond to each of the Patent Office's rejections in advancing the prosecution of this case. Applicants believe that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If a telephone or video conference would help expedite allowance or resolve any additional questions, such a conference is invited at the Patent Office's convenience.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

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